

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: Elaine K. Cooperstein
Debtor

SN Servicing Corporation as
Servicer for U.S. Bank Trust
National Association, as Trustee of
BKPL Lodge Series I Trust
Movant

v.

Elaine K. Cooperstein
Kenneth E. West - Trustee
Respondents

Case No.: 19-12568-mdc

Chapter: 13

Judge: Magdeline D. Coleman

Hearing Date: March 29, 2022 at 10:30 am

Objection Deadline: March 14, 2022

MOTION FOR RELIEF FROM THE
AUTOMATIC STAY

SN Servicing Corporation as Servicer for U.S. Bank Trust National Association, as Trustee of BKPL Lodge Series I Trust (together with any successor and/or assign, “Movant”) hereby moves this Court for an Order (i) pursuant to 11 U.S.C. § 362(d)(1), vacating the automatic stay to permit Movant to enforce its mortgage on the Debtor’s premises located at 1600 Hagysford Road, Unit 3Y, Penn Valley, PA 19072 (the “Property”) and (ii) for such other and further relief as is just and proper. In support of this Motion, Movant respectfully states:

1. Movant is the holder of a Note executed by the Debtor and dated January 5, 1999, whereby the Debtor promised to repay \$77,050.00 plus interest to Countrywide Home Loans, Inc. (the “Original Lender”). To secure the repayment of the Note, the Debtor executed a Mortgage in favor of Original Lender, encumbering the Property, which was recorded in Recorder of Deeds Office in Montgomery County, Pennsylvania under Book 8344, Page 0213.

The Mortgage was ultimately assigned to Movant by an Assignment of Mortgage. A copy of the Note, Mortgage and Assignments of Mortgage are attached hereto as **Exhibit A**.

2. A Petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtor on April 22, 2019

3. This Court has jurisdiction over this case and this motion pursuant to 28 U.S.C. §§ 157 and 1334.

4. Venue of this case and this motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

5. When the instant case commenced, Movant's loan was held and serviced by AMIP Management, as evidenced by the Proof of Claim filed under Claim Number 4-1 on May 22, 2019. Subsequently, the loan was duly transferred to Movant as shown by the Transfer of Claim filed on December 28, 2020.

6. The Debtor's Chapter 13 Plan was confirmed by an Order entered by this Court on December 5, 2019. The default on Movant's loan constitutes a default on the terms of the Confirmation Order.

7. The Debtor has failed to make current mortgage payments due to Movant under the terms of the Mortgage. As a result, the Mortgage remains post-petition due for January 1, 2021.

8. Pursuant to 11 U.S.C. §362 (d)(1), the court shall enter an order granting a secured creditor relief from the automatic stay for cause "including the lack of adequate protection of an interest in property of such party and interest."

9. Specifically, courts have found cause for the granting of relief from an automatic stay where the debtor has failed to make post-petition mortgage payments as they become due. *In*

Re Michael Lancelot Taylor, 151 B.R. 646,648 (Bankr. E.D.N.Y. 1993).

10. Plaintiff incurred attorney's fees in the amount of \$1,050.00 and filing costs of \$188.00 in connection with filing and prosecuting of this motion for relief and seeks recovery of those amounts in order to cure the post-petition default.

11. Since grounds exist to vacate the stay in Debtor's case, Movant therefore requests that the automatic stay imposed under 11 U.S.C. § 362(a) be modified and terminated for cause to permit Movant to pursue its rights under the Mortgage and applicable law, including without limitation, the commencement and consummation of a foreclosure action and/or eviction proceeding.

WHEREFORE, Movant respectfully requests an Order of this Court vacating the automatic stay for cause pursuant to 11 U.S.C. § 362(d)(1); and for such other, further and different relief as to this Court may deem just, proper and equitable.

Dated: February 28, 2022

By: /s/ Lauren M. Moyer
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